

**OLD ORCHARD BEACH PLANNING BOARD
MEETING MINUTES
Thursday, April 10, 2014
Town Council Chambers**

Call to Order at 7:08 pm	Call to Order
Pledge to the Flag	
<p>Roll Call: Chair Carl D’Agostino, Win Winch, Mike Fortunato, Mark Koenigs, Eber Weinstein. Staff: Jeffery Hinderliter; Town Planner, Valdine Camire; Administrative Assistant.</p>	
<p>APPROVAL OF MINUTES –2/6/14, 3/6/14, 3/13/14</p> <p>Win Winch made a motion to approve the workshop meeting minutes of February 6, 2014, seconded by Eber Weinstein. All approved.</p> <p>Eber Weinstein made a motion to approve the workshop meeting minutes of March 6, 2014, seconded by Win Winch.</p> <p>Win Winch made a motion to approve the regular meeting minutes of March 13, 2014, seconded by Mark Koenigs. Eber Weinstein abstained as he was not in attendance at that meeting.</p>	<p>MOTION VOTE (5-1)</p> <p>MOTION VOTE (5-1)</p> <p>MOTION VOTE (4-0-1)</p>
<p><u>Public Hearings</u></p> <p><u>ITEM 1</u> Proposal: Conditional Use: Construct a Skateboard complex Owner: Town of Old Orchard Beach Location: 14 E. Emerson Cummings Blvd (Ballpark); MBL: 207-3-6</p> <p>Opened the Public hearing at 7:10 pm.</p> <p>John Bird introduced himself to the Board Members and expressed his concern if this is really needed In our town and if it is in the right location. Other concerns that Mr. Bird has is will it have lights and will there be supervision along with the upkeep of the maintenance. He would like to see this located closer to town.</p> <p>Abutter to the proposed Skateboard Park Pierre Boutilier from 4 Patriot Way introduced himself to the Board Members. Mr.Boutilier’s concern was the potential for drainage issues and another concern was losing the vegetation of the buffer in the neighborhood sacrificing the quiet enjoyment of the</p>	<p><u>ITEM 1</u></p>

<p>neighborhood. The Conservation Commission initially recommended that this Skateboard Park be located across the street. He would like to see that happen.</p> <p>There being no one else speaking for or against this agenda item, the public hearing closed at 7:24 pm.</p>	
<p><u>ITEM 2</u> Proposal: Site Plan Amendment & Conditional Use: Construct a 48 x 48 storage building Owner: Town of Old Orchard Beach Location: EE Cummings Blvd. & Ballpark Way (Police Department), MBL: 207-3-6</p> <p>Opened the public hearing at 7:25 pm.</p> <p>John Bird introduced himself to the Board Members and is concerned with this being built over part of where the detention pond is. Concerned about the foundation/slab shifting. He would like to see this storage shed built in another location.</p> <p>Chief Kelly introduced himself to the Board Members and explained that when they build the new Police Station in 2011, there was always a plan to add some sort of storage building somewhere on the property. The storage part of it was on hold until they knew what the cost of the main building was going to be when it was finished. They had \$250,000 left when the project was completed. They then decided that they would begin the process of getting a storage building with the amount of money that was left. Chief Kelly informed the Board Members that once they have the permits and everything is in place, they will move forward with the RFP's for the building of the storage shed.</p> <p>In meeting with DEP and looking at the plans, they felt that the better option was to put the storage shed where the retention pond is now and re-do the drainage. Also putting it in this location, the clearing of trees is minimal. This storage will be strictly for the Police Departments use.</p> <p>There being no one else speaking for or against the appellant, the public hearing closed to the public at 7:32 pm.</p>	<p><u>ITEM 2</u></p>
<p><u>ITEM 3</u> Proposal: Conditional Use (Home Occupation): Seamstress/Tailoring Services Owner: Linda Pollard Location: 18 Milliken Mills Rd., MBL: 101-2-5</p> <p>Opened the public hearing at 7:32 pm.</p> <p>There being no one speaking for or against the appellant, the public hearing closed at 7:33 pm.</p>	<p><u>ITEM 3</u></p>

<p><u>ITEM 4</u> Proposal: Conditional Use (Accessory Dwelling): Establish 1 Accessory Dwelling Unit Owner: Elegant Homes Location: Portland Ave. (Elegant Homes Subdivision), MBL: 101-2-7</p> <p>Opened the public hearing at 7:33 pm.</p> <p>Jim Logan from Albert Frick Associates introduced himself to the Board Members. Mr. Logan informed the Board Members that he brought this before the Planning Board on March 13, 2014 and they had the minor amendment approved to bring lot #5 of the Elegant Homes Subdivision back in for consideration of development. This was followed up with a site walk of the property on April 3, 2014. And are here tonight for final deliberations for a public hearing.</p> <p>No one speaking for or against the appellant, the public closed at 7:34 pm.</p>	<p><u>ITEM 4</u></p>
<p><u>ITEM 5</u> Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Article VI (Districts), Division 8 (General Business District 1), Sec. 78-803 (Conditional Uses) to allow Tattoo Parlors as a Conditional Use within the General Business District 1 (GB-1); Chapter 78 (Zoning), Article VI (Districts), Division 16 (Historic Overlay District), Sec. 78-1135 (Prohibited Uses) to prohibit Tattoo Parlors within the Historic Overlay District; Amend Chapter 78 (Zoning), Article I (In General), Sec. 78-1 (Definitions), to add definitions “Tattoo Parlor” and “Tattoo, tattooed, tattooing.”</p> <p>Opened the Public Hearing at 7:35 pm.</p> <p>Robert Johnson, owner of Good & Evil Tattoo introduced himself to the Board Members. Mr. Johnson informed the Board Members that his business is a very clean shop and is regulated by the State for Health Inspections. He has had no violations with the State. He was approved for a business a year ago on 9 Ocean Park Road and had no problems while he was located there. He now wants to move his business, which is in the same zone as the other location. He would like to see this go forward.</p> <p>Ray DeLeo from 20 Portland Avenue, OOB and Chairman of the Zoning Board of Appeals informed the Board Members that this item came up for review with the ZBA. The ZBA Board was unanimous in their decision that they agree with Dan Feeney, OOB Code Officer that the area is not zoned for a tattoo parlor.</p> <p>Kathy Smith, a resident from Whispering Pines in Old Orchard Beach and who also works in the Old Orchard Beach Code Office introduced herself. Mrs. Smith stated that in defense of the previous Code Officer, she has had discussions with him and he did think that this tattoo business did fall under personal service in the GB-1 by mistake. This was found by our new Code Officer that it wasn't allowed in the GB-1. Mrs. Smith also stated that she doesn't think that allowing tattoo establishments in the main entrances to our town is the atmosphere that we want. She believes that these ordinances were put in place for a reason.</p> <p>Helene Whittaker from Ocean Park stated that she doesn't think that we need another tattoo establishment.</p>	<p><u>ITEM 5</u></p>

<p>Jim Leverier from Waterville stated that in other cities if a tattoo establishment falls under an adult business for them in their town then why can't it fall under an adult business for Old Orchard Beach.</p> <p>Pat Brown, resident from Old Orchard Beach stated that most importantly, we have to look at the plans for the town. There has to be a reason that GB-1 is zoned this way. We all have to think about the vision that we want to see for our town. We have to ask ourselves if this fits where our town entrances are. She also stated that when you start making changes to ordinances, you have to think about all of the unattended consequences involved. It doesn't have to be a bad business, but when you are coming into town and look at the new business, what image does that give the community?</p> <p>Jay Kelly, resident from Wild Dunes Way and also an Old Orchard Beach Town Councilor stated that what we really need to look at is the question of do we want to start changing ordinances to meet individual needs.</p> <p>Barbara Ulch from Ocean Park stated that if you start changing ordinances, we are going to turn the clock back. The last few years this town has changed for the positive and what we have become. She is not in favor of changing the ordinance.</p> <p>John Bird from Old Orchard Beach was concerned that if this ordinance changes and the business leaves, the ordinance change still stays. He also mentioned that they should look at removing the adult business ordinance in the GB-1 also. If it is allowed then it should be strictly controlled.</p> <p>There being no one else speaking for or against this item, the public hearing closed at 8:13 pm.</p>	
<p><u>Regular Meeting</u></p>	
<p><u>ITEM 6</u> Proposal: Conditional Use: Construct a Skateboard complex Action: Final Review; Decision Owner: Town of Old Orchard Beach Location: 14 E. Emerson Cummings Blvd (Ballpark); MBL: 207-3-6</p> <p>Stephanie Hubbard, Project Engineer with Wright Pierce Engineers introduced herself along with Recreation Director Jason Webber to discuss the logistics of the skateboard park. It is a limited Footprint. The intent of the skateboard park is to build it up as a bur. There is a 6" drain beneath to get rid of any water that might accumulate within the design. The clearing limits are approximately 90 x 90 sq. ft. The new drainage pattern of the police station should not affect this project. There will not be an impact to the abutters as far as the additional drainage. There will be no lighting for the skate park but there will be security lighting from the Police Station. This will be an open park with no fence. Mr. Webber informed the Board Members that the Ballpark Commission had a unanimous vote on locating the skateboard in that location. With the insurance liability, there is no extra that they have to take on as the town. There will also be signs that states "skate at your own risk". Eber Weinstein stated that he would like to get the town's attorney's opinion on the liability of the town. (Attractive Nuisances) Mr. Hinderliter stated that this could be one of the conditions for approval. Mr. Koenigs stated that since this falls under conditional use is because it is recreation. It should be looked at as the entire piece of parcel. There are some restrictions of the development of the property by the town. It should have a minimum of 35% open area. The Board Members discussed concerns</p>	<p><u>ITEM 6</u></p>

<p>that the abutters had and agreed that since the skate park has a dusk to dawn provision, noise shouldn't be a problem. Maintenance will be maintained by the Recreation Department with the help from Public Works.</p> <p>Eber Weinstein made a motion to approve the Conditional Use to construct a skate park complex at 14 E. Emerson Cummings Blvd (Ballpark); MBL: 207-3-6 with a condition to consult with an attorney stating that the town has no legal responsibility in case anyone gets hurt. Seconded by Win Winch.</p> <p>Unanimous.</p>	<p><u>MOTION</u></p> <p><u>VOTE</u> <u>(5-0)</u></p>
<p><u>ITEM 7</u></p> <p>Proposal: Site Plan Amendment & Conditional Use: Construct a 48 x 48 storage building Action: Final Review; Decision Owner: Town of Old Orchard Beach Location: EE Cummings Blvd. & Ballpark Way (Police Department), MBL: 207-3-6</p> <p>Chair D'Agostino questioned the tree clearing that will have to be done there. Project Engineer Stephanie Hubbard informed the Board Members that they will limit the tree clearing as much as they are able to. Jeffrey Hinderliter recommends a condition that construction shall not begin until all DEP permits are approved.</p> <p>The original site for this building was more on the back side and that would have required quite a bit of earth moving and tree removal. Ms. Hubbard also stated that they do need to take some modifications to the existing detention base and are going to shorten this up, utilizing more of a treatment system coming out of there.</p> <p>Ms. Hubbard informed the Board Members that this is not part of the ballpark, it is originally part of the school site.</p> <p>They added a waterline in case they needed to connect a hose bib connection in the future. They also put in a roof edge drip line to prevent runoff from the roof of the building.</p> <p>Win Winch made a motion to approve the Site Plan Amendment and Conditional Use to construct a 48' x 48' storage building adjacent to the existing Police Department. This is conditioned upon receiving all DEP permit approvals before hand. Seconded by Eber Weinstein.</p> <p>Unanimous.</p>	<p><u>ITEM 7</u></p> <p><u>MOTION</u></p> <p><u>VOTE</u> <u>(5-0)</u></p>
<p><u>ITEM 8</u></p> <p>Proposal: Conditional Use (Home Occupation): Seamstress/Tailoring Services Action: Final Review; Decision Owner: Linda Pollard Location: 18 Milliken Mills Rd., MBL: 101-2-5</p> <p>Linda Pollard introduced herself to the Board Members. She would like to put up a sign which is 1" x 2" in size and would like to put it on the opposite side of her mailbox. Jeffrey Hinderliter stated that she can do this as long as it doesn't interfere with vehicular site lines.</p> <p>Eber Weinstein made a motion to allow a Conditional Use home occupation for a seamstress/tailoring service owned by Linda Pollard located at 18 Milliken Mills Road, MBL: 101-2-5. Seconded by Mark Koenigs.</p> <p>Unanimous.</p>	<p><u>ITEM 8</u></p> <p><u>MOTION</u></p> <p><u>VOTE</u> <u>(5-0)</u></p>

<p><u>ITEM 9</u> Proposal: Conditional Use (Accessory Dwelling): Establish 1 Accessory Dwelling Unit Action: Final Review; Decision Owner: Elegant Homes Location: Portland Ave. (Elegant Homes Subdivision), MBL: 101-2-7</p> <p>Jim Logan from Albert Frick Associates introduced himself to the Board Members. Mr. Logan informed the Board Members that he brought this before the Planning Board on March 13, 2014 and they had the minor amendment approved to bring lot #5 of the Elegant Homes Subdivision back in for consideration of development. This was followed up with a site walk of the property on April 3, 2014. And are here tonight for a proposal for a one bedroom accessory apartment proposed to go over the attached garage.</p> <p>Mark Koenigs made a motion to approve the conditional use of an accessory dwelling unit with a condition that the accessory dwelling unit and establish an accessory dwelling unit for owner Elegant Homes, Portland Avenue, MBL: 101-2-7 with a condition that the requirements are met for the accessory dwelling in the zoning ordinance section 78-1272. Mike Fortunato seconded the motion.</p> <p><i>Planner Jeffrey Hinderliter called for the vote:</i></p> <p>Mark Koenigs – Yes Win Winch – Yes Mike Fortunato – Yes Eber Weinstein – Yes Chair D’Agostino - Yes</p>	<p><u>ITEM 9</u></p> <p><u>MOTION</u></p> <p><u>VOTE</u> <u>(5-0)</u></p>
<p><u>ITEM 10</u> Provide Recommendation To Council: Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Article VI (Districts), Division 8 (General Business District 1), Sec. 78-803 (Conditional Uses) to allow Tattoo Parlors as a Conditional Use within the General Business District 1 (GB-1) and to amend Chapter 78 (Zoning), Article I (In General), Sec. 78-1 (Definitions), to add a definition “Tattoo Parlor.”</p> <p>The Board discussed whether it is in the best interest of the town to have a tattoo parlor located in the GB-1 part of town.</p> <p>Mark Koenigs feels that the definition of a tattoo parlor should be added to the ordinance since it is a permitted use in one of the zones. He questioned whether we should consider changing just one conditional use within a zone. He feels that as long as these businesses are being done right, he doesn’t see the need to restrict businesses in town.</p> <p>Win Winch questioned where do we draw the line with tattoo parlor’s in personal services. Tattoo parlors are more mainstream in today’s world. How do you separate tattoo parlors from nail parlors.</p> <p>Carl D’Agostino stated that this discussion is whether this is in the best interest of the community to make this a conditional use in GB-1 (especially coming through the gateway corridor into our town). It doesn’t lend itself to businesses that do not focus on what our town base identity is, which is traveling tourism. He also stated that this business doesn’t provide any value to our town.</p>	<p><u>ITEM 10</u></p>

As Mr. Hinderliter recalls, when the permit was approved from the Code Office, it was just for general rehab of the building. Jeffrey Hinderliter informed the Board Members that he feels that tattoo parlors does not fall under personal services definitions because it does not engage in the care of a person, his personal good or apparel. The reason that Mr. Hinderliter supported this proposal moving forward through the Council and the Planning Board process was if it continued to be defined as a tattoo parlor. Currently tattoo parlors are defined in Chapter 18 under businesses, but he had to change the definition a bit so it could fit within the land use.

Chair D’Agostino recommends the Town Council adopt the definition of what a tattoo parlor is and also that the Town Council not consider a conditional use to allow tattoo parlors within the GB-1 zone.

Mark Koenigs recommends allowing the conditional use to both the GB-1 and the Historical Overlay District. He also stated that instead of a prohibited use, he would recommend that it be a conditional use. Everything has to come before the Planning Board for approval and other than that we are not restricting businesses in the town and where they can be established. Mr. Koenigs expressed his concern that he is not willing to restrict business opportunities. If someone wants to run a business and they think that they can make a go of it, he is willing to let them pay the taxes in our town and to run a business and to support the rest of the town. If we restrict everything, we are not going to grow.

Mr. Hinderliter informed the Board Members that the one thing to remember that if a use is not identified, then it is prohibited.

Mike Fortunato agrees that all of this needs to be addressed including adult businesses.

Mike Fortunato made a motion to table this item until the next meeting. Seconded by Win Winch.

Planner Jeffrey Hinderliter called for the vote:

- Mark Koenigs – Yes
- Mike Fortunato – Yes
- Win Winch – Yes
- Eber Weinstein – No
- Chair D’Agostino – No

Jeffrey Hinderliter will send an email out to all Board Members for a future meeting on this item so that it can work within the timeframe of the Council Meeting.

MOTION

VOTE

(3-2)

ITEM 11

Proposal: Site Plan: Removal of existing building and construction of a three story retail and residential 10,976 sq. Ft. building

Action: Determination of completeness; Schedule site walk and public hearing

Owner: The Harrisburg Group

Location: 11 East Grand, MBL: 306-3-3

Architect Brud Weger introduced himself to the Board Members. What they are proposing to do is to demolish this building and replacing it with a retail building on the ground floor and also have 4 residential units above with parking (2 spaces per unit) on the East side. The parcel size is approximately 10,000 sq.ft. in the DD-1 zone. Allowable building coverage is 90%, the existing building area is 6,647 sq.ft. The building coverage is 65%. They have received a DEP permit from 2012. It is in FEMA flood zone C. They will pave the plaza with pervious pavers as well as the walkways. They will have enclosed dumpsters in the back of the building. There will be a freight door

ITEM 11

<p>going down to the full basement for retail storage. They are not changing the drainage. The photo metrics lighting is a special florescent type cut off fixtures that will limit light on the street. It will be vinyl siding and vinyl shingles. They have a landscaping plan. They also want to move the project 10 feet closer to East Grand to maximize space for parking.</p> <p>Win Winch made a motion to determine the package complete but recognizing that there are additional changes to be made in regards to Design Review Committee recommendations. Seconded by Mark Koenigs.</p> <p><i>Planner Jeffrey Hinderliter called for the vote:</i></p> <p>Mark Koenigs – Yes Mike Fortunato – Yes Eber Weinstein – Yes Win Winch – Yes Chair D’Agostino – Yes</p> <p>There will be a sitewalk on May 1, 2014 at 5:30. There will be a public hearing on May 8, 2014 at 7:00 pm.</p>	<p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE</u></p> <p style="text-align: center;"><u>(5-0)</u></p>
<p><u>ITEM 12</u></p> <p>Proposal: Subdivision Amendment: Amend Sandy Meadows Subdivision (Formerly known as LaCosta Key) to allow garages to certain dwelling units identified on plans</p> <p>Action: Consideration of proposal and rule on amendment</p> <p>Owner: LaCosta Development LLC</p> <p>Location: Sandy Meadows Subdivision (Wild Dunes Way), MBL: 105A-1-A</p> <p>Jeffrey Hinderliter brought the Board Members up to date on this proposal. This development is currently being built out according to our last amendment. There is new financing involved and the people behind the financing wanted to make some changes for the units to add garages. Change the access to the lots. Looking at more impervious surface, but less than the original.</p> <p>Bill Thompson, Engineer from BH2M Engineering introduced himself to the Board Members. They are here for the second amendment for the 14 units, adding garages.</p> <p>Based on marking and the wishes of the owners, they would like to have a garage. It pulls some of the parking in off of the street. With a 1 car garage and a front porch, it adds about 400 sq.ft. to each of the 14 units. No other changes to the plan. The plan supports what we are proposing.</p> <p>Win Winch made a motion to approve the Sub Division Amendment to amend Sandy Meadows Sub Division formerly known as Lacosta to allow garages to the 14 units indicated on the plans. Mike Fortunato seconded the motion.</p> <p><i>Planner Jeffrey Hinderliter called for the vote:</i></p> <p>Mark Koenigs – Yes Mike Fortunato – Yes Eber Weinstein – Yes Win Winch – Yes Chair D’Agostino – Yes</p>	<p style="text-align: center;"><u>ITEM 12</u></p> <p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE</u></p> <p style="text-align: center;"><u>(5-0)</u></p>
<p><u>Other Business</u></p>	<p style="text-align: center;"><u>ITEM 13</u></p>

<p><u>ITEM 13</u> Status update and discussion of next steps regarding the disposition of the conditions of approval for Summerwinds Development</p> <p>Planner Jeffrey Hinderliter stated that he is pleased with the revision from the last time, but he had a couple of reservations which have been addressed associated with the height of the snow banks and making sure the language in the written part of the application identifying the snow storage plan. Mr. Hinderliter also stated that he will have the Public Works Director, Bill Robertson review the plan as well. It also has to be sent forward to the Registry of Deeds to be recorded.</p> <p>Win Winch made a motion to accept the approval of the Summerwinds snow removal plan contingent upon approval from the Public Works Director and registered in the York County Registry of Deeds. Mike Fortunato seconded the motion.</p> <p>Unanimous.</p>	<p><u>MOTION</u></p> <p><u>VOTE</u> <u>(5-0)</u></p>
<p><u>ITEM 14</u> Administrative approvals and discussions regarding in-process land use applications</p> <p>Mark Koenigs moved to table this item, seconded by Win Winch.</p>	<p><u>ITEM 14</u></p>
<p><u>Good & Welfare</u></p>	
<p>ADJOURNMENT CARL D'AGOSTINO, CHAIRMAN</p>	
<p>Meeting adjourned at 10:35 pm</p>	<p>Adjournment</p>

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Nine (9) pages is a true copy of the original minutes of the Planning Board Meeting of April 10, 2014.

Valdine Camire